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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,595	01/26/2001	Kojiro Okamoto	0819-416	1644

7590

04/06/2006

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EXAMINER

ORTIZ CRIADO, JORGE L

ART UNIT

PAPER NUMBER

2627

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 09/744,595	Applicant(s) OKAMOTO ET AL.	
	Examiner Jorge L. Ortiz-Criado	Art Unit 2656 2657	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 29.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.


 ANDREA WELLINGTON
 SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

In this case the rejection is claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admitted prior art in combination with Lokhoff et al. further in view of Timmermans et al.

Applicant also argues that the combination of the references is not properly combinable and there is no teaching, suggestion or motivation to combine.

The examiner respectfully disagrees with the Applicant because the examiner properly shows the nexus between the references as follows.

In regard to the claimed feature relating the recording medium, Applicant's admitted prior art teaches a primary recording region and a secondary recording region which is located on the side of an internal periphery of said primary recording region, the primary control information in said secondary recording region includes an invalid key information item for inhibiting reproduction of main data encrypted in said primary recording region.

Lokhoff et al. teach and suggest having a primary recording region and a secondary recording region which is located on the side of an internal periphery of said primary recording region, and where said primary recording region has a track which wobbles at a first pitch/frequency where said secondary recording region has a track which wobbles at a second pitch/frequency different from said first pitch/frequency recorded with signal representative of control information.

In regard to the feature claimed relating the specifics of a reproducing apparatus, Timmermans et al., teach such specifics of the detection and position of the recording regions and track portions to be reproduced by detecting wobbles at pitch/frequency, enabling recovering/reproducing of the tracks having a predetermined wobbles pitch/frequency and that in the case of the absence of the predetermined pitch/frequency the recovery/reproduction is disabled.

First, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

In this case, at least Applicants admitted prior art teaches that is possible to take other countermeasures against unauthorized copying. For example at the time of the manufacture of an R disk, invalid key information is recorded in a secondary recording region of that R disk and identification information indicating that the disk concerned is not a RUM disk but an R disk is recorded also in the secondary recording region which is read first at the time of seeking for the of such secondary recording region to be reproduced first. Lokhoff et al. suggest how to have the disk structure recording regions with specifics wobbles at pitch/frequency feature, because by doing so, it would provide the detection and position of the primary and secondary recording regions and track portion to be reproduced by detecting such wobbles at pitch/frequency, and Timmermans et al. specifically teach and suggest such specifics of an apparatus to reproduce such recording medium enabling recovering/reproducing of the tracks having a predetermined wobbles pitch/frequency and that in the case of the absence of the predetermined pitch/frequency the recovery/reproduction is disabled.


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